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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RUTH MARIE TRITZ,
SHAWN M. BATES, and ADAM J. ELLIOTT

Appeal 2011-000492
Application 09/653,595
Technology Center 3600

Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and
MICHAEL W. KIM, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 1-9, 26-32, and 40. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

BACKGROUND

Appellants' invention is directed to a method for automatically analyzing or evaluating an applicant's credit bureau data, financial account information and demographic data (Spec. 1, ll. 14-16).

Claim 1 is illustrative:

1. A computer-implemented method of automatically evaluating a financial account applicant for a financial institution, the method comprising the acts of:

- by a computer, electronically accessing credit bureau data for the applicant;

- by the computer, electronically accessing account information for the applicant;

- by the computer, inputting the credit bureau data and the account information into an algorithm that defines a risk model;

- by the computer, assigning a scoring variable to at least some data of the credit bureau data and of the account information data and applying a point value to each of the scoring variables to generate a first score;

- by the computer, electronically generating a final score for the applicant from an output of the risk model including applying a scaling equation to the first score to generate the final score for the applicant; and

- by the computer, determining whether to open the financial account based on the final score.

Appellants appeal the following rejections:

Claims 1-6, 9, 26-30, and 40 rejected under 35 U.S.C. § 103(a) as unpatentable over Basch (US 6,119,103; iss. Sep. 12, 2000) and Walker (US 6,088,686; iss. Jul. 11, 2000).

Claims 7-8 and 31-32 rejected under 35 U.S.C. § 103(a) as unpatentable over Basch, Walker, and Dee DePass, *Deluxe, 2 others plan 'debit bureau'// Data warehouse will seek to help prevent check, debit card fraud*, Star Tribune, 1-4 (Jan. 29, 1998) (hereinafter “DePass”).

FACTUAL FINDINGS

We adopt the Examiner’s findings as our own. Ans. 4-5.
Additional findings of fact may appear in the Analysis that follows.

ANALYSIS

Claims 1-6, 9, 26-30, and 40 rejected under 35 U.S.C. § 103(a) as unpatentable over Basch and Walker.

We are not persuaded of error by the Appellants’ argument that the combination of Basch and Walker fails to teach or suggest “assigning a scoring variable to at least some data of the credit bureau data and of the account information data and applying a point value to each of the scoring variables to generate a first score,” as recited by independent claims 1 and 9. App. Br. 10; Reply Br. 2-3. Appellants assert that “[i]n Basch, credit bureau data [are] not input to the predictive model because the credit bureau data was already used to create the predictive model.” App. Br. 11.

While we acknowledge that credit bureau data are used in Basch to authenticate predictive models (col. 7, ll. 38-44), we additionally find that Basch discloses that credit bureau data are scoreable transactions (col. 18, ll. 42-46). In particular, Basch discloses that scoreable transactions may include any event that impacts a credit holder’s credit risk level such as public record data and customer payment data (col. 18, ll. 42-46). We note

that Appellants' independent claims only require that a "scoring variable" be assigned to "at least some data of the credit bureau data and of the account information data." Therefore, to satisfy the language of independent claims 1 and 9, Basch need only assign a scoring variable and apply a point value to some of the credit bureau data, not all of the credit bureau data.

To address the step of "assigning a scoring variable to at least some data of the credit bureau data and of the account information data and applying a point value to each of the scoring variables to generate a first score," the Examiner relies on the financial risk prediction system of Basch which derives account-level scores from patterns generated from scoreable transactions. (Ans. 4; *see also* Basch at col. 3, ll. 56-62.) Basch discloses that its system transforms scoreable transaction data into characteristic variables, which the Examiner interprets as applying a point value to each of the scoring variables to generate a first score (col. 18, ll. 48-52). Basch further discloses that these characteristic variables are used in the transaction scoring process (col. 18, ll. 48-52) to produce accounts scores which are based on each of the scoreable transactions (col. 12, l. 66 – col. 13, l. 2). In this regard, we find that Basch supports the Examiner's interpretation, and as such, find that the combination of Basch and Walker teaches or suggests "assigning a scoring variable to at least some data of the credit bureau data and of the account information data and applying a point value to each of the scoring variables to generate a first score," as presently claimed.

Moreover, we are not persuaded of error by the Appellants' argument that Basch teaches away from using credit bureau data. Reply Br. 2-3. Just because Basch describes credit bureau data as outdated since they are only updated monthly or per billing cycle, and instead favors various types of

immediate scoreable transactions (e.g., authorizations and clearing and settlement transactions for purchases of goods or services on credit or cash withdrawal on credit), to better reflect a current financial risk level (col. 5, ll. 19-29), Basch nevertheless discloses that scoreable transactions may include any event that impacts a credit holders credit risk level, including credit bureau data such as public record data and customer payment data (col. 18, ll. 42-46). Therefore, we do not find Basch's disclosure to teach away from the use of credit data. See *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994) (“[a] known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use”).

We are not persuaded of error by the Appellants' argument that the combination of Basch and Walker fails to teach or suggest “electronically generating a final score for the applicant from an output of the risk model including applying a scaling equation to the first score to generate the final score for the applicant,” as recited by independent claims 1 and 9. App. Br. 13; Reply Br. 5-6. Appellants assert that even if weighting were the same as applying a scaling equation, Basch fails to disclose that a weight is applied to derived score 716, 718, 732 in Figure 7 of Basch to generate a final score. App. Br. 13.

However, we agree with the Examiner that “applying a scaling equation to the first score to generate the final score” reads on weighting the characteristic variables or derived score by a weight to generate a final score, as disclosed by Basch (col. 17, l. 56 – col. 18, l. 17). In particular, we find the account-level scores generated from scoreable transactions represent the final score, as presently claimed (col. 17, ll. 44-47). Basch arrives at this

final score by multiplying characteristic variables (the output value of each scoreable transaction) by appropriate weights (col. 17, ll. 61-65). Therefore, in the absence of any special definition for “scaling equation” in Appellants’ Specification, we find the combination of Basch and Walker teaches or suggests “electronically generating a final score for the applicant from an output of the risk model including applying a scaling equation to the first score to generate the final score for the applicant,” as recited by independent claims 1 and 9.

We are also not persuaded of error by the Appellants’ argument that the combination of Basch and Walker fails to teach or suggest “determining whether to open the financial account based on the final score,” as recited by independent claims 1 and 9. App. Br. 15; Reply Br. 5-6. Appellants’ assert that “Walker does not teach or suggest generating a final score for the applicant by a computer from an output of the risk model including applying a scaling equation to the first score as claimed.” App. Br. 16. However, the Examiner does not rely on Walker to address this limitation, but rather relies on Basch (col. 19, ll. 6-12) to address this limitation. (Ans. 4-5). *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (the argument that a single reference alone does not disclose the recited claimed steps is not persuasive because nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures); *In re Keller*, 642 F.2d 413, 426 (CCPA 1981) (“one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references.”)

In view of the foregoing, we will sustain the Examiner’s rejection of independent claims 1 and 9. We will also sustain the Examiner’s rejection

of remaining claims 2-8, 26-32, and 40 because Appellants have not argued the separate patentability of these dependent claims.

Claims 7-8 and 31-32 rejected under 35 U.S.C. § 103(a) as unpatentable over Basch, Walker, and DePass.

We are not persuaded the Examiner erred in asserting that the combination of Basch, Walker, and DePass renders obvious dependent claims 7-8 and 31-32. App. Br. 18-19; Reply Br. 7. Appellants assert that DePass fails to remedy the deficiencies of Basch and Walker in the Examiner's rejection of independent claims 1 and 9. However, as set forth above, the Examiner's rejection of independent claims 1 and 9 is not deficient. Thus, we will sustain the Examiner's rejection of claims 7-8 and 31-32.

DECISION

The decision of the Examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED

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